



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**VIA UPS**

Kenneth R. Gower  
Vice President  
Wm. T. Burnett & Co., Inc.  
2112 Montevideo Road  
Jessup, MD 20794

**Re: Notice of Violation**  
Compliance Evaluation Inspection  
September 23, 2014

**Docket No.: R3-15-NOV-RCRA-08**

Dear Mr. Gower:

On September 23, 2014, the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") of Wm. T. Burnett & Co., Inc. ("the Facility" or "WTB") located in Jessup, Maryland under the federally authorized Code of Maryland Regulations ("COMAR") and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. As a result of the CEI, EPA has determined that WTB has violated regulations under COMAR and RCRA. As a result of this determination, EPA is issuing this Notice of Violation ("NOV"). The specific violation(s) are:

1. During the September 23, 2014 EPA CEI, Facility personnel stated that aerosol can products such as grease lubricants, adhesives, cleaners, and spray paints are used at the Facility. Such aerosol can products are used until the product is spent, and the spent aerosol cans are subsequently disposed of in the regular trash. Material Safety Data Sheets provided to EPA on October 7, 2014 after the EPA CEI indicate, that when discarded, the contents of such cans exhibit the criteria of a hazardous waste for the characteristic of ignitability (D001). In accordance with COMAR § 26.13.03.02.A, a person who generates a solid waste must determine if that waste is a hazardous waste. Based on the information gathered during the EPA CEI and from follow-up information gathering, WTB failed to make a waste determination in violation of COMAR § 26.13.03.02.A for its spent aerosol can waste stream prior to disposal.
2. During the September 23, 2014 EPA CEI, the Facility provided copies of training sign-in sheets dated May 20, 2012 and May 3, 2014 as documentation of hazardous waste training given to employees that manage hazardous waste. At the time of the EPA CEI, Facility personnel indicated that hazardous waste training is provided every other calendar year for WTB employees that manage hazardous waste. For calendar years 2011 and 2012, WTB did not have documentation of annual hazardous waste training provided for employees that have hazardous waste management duties at the Facility. In

accordance with COMAR § 26.13.03.05.E(1)(g), which references COMAR § 26.13.05.02.G(3), personnel must take part in an annual review of its initial hazardous waste management training. Based on the information gathered during the EPA CEI, WTB failed to provide annual hazardous waste training for those employees responsible for the management of hazardous waste in violation of COMAR § 26.13.03.05.E(1)(g), which references COMAR § 26.13.05.02.G(3).

3. During the September 23, 2014 EPA CEI, the EPA inspector requested copies of documented job titles and written job descriptions for those employees responsible for the management of hazardous waste at the Facility. At the time of the EPA CEI, the Facility did not have documented job titles or job descriptions for employees responsible for managing hazardous waste. In accordance with COMAR § 26.13.03.05.E(1)(g), which references COMAR § 26.13.05.02.G(4)(a)-(c), generators of hazardous waste are required to maintain documentation of job titles (including the name of the employee filling the position), written job descriptions, and a written description of initial and continuing training. Based on the information gathered during the EPA CEI, WTB failed to prepare and maintain written job titles and job descriptions in violation of COMAR § 26.13.03.05.E(1)(g), which references COMAR § 26.13.05.02.G(4)(a)-(c).
4. During the September 23, 2014 EPA CEI, the EPA inspector reviewed a copy of the WTB Facility Emergency Plan. The EPA inspector noted that the home addresses of the listed emergency coordinators were not included in the Facility Emergency Plan. On October 7, 2014, WTB provided EPA an updated list of emergency coordinators and their respective home addresses. In accordance with COMAR § 26.13.03.05.E(1)(g), which references COMAR § 26.13.05.04.C(4), a Contingency Plan shall list the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinators. Based on the information gathered during the EPA CEI and from follow-up information gathering, WTB failed to list the home addresses of the designated emergency coordinators in its contingency plan in violation of COMAR § 26.13.03.05.E(1)(g), which references COMAR § 26.13.05.04.C(4).

A copy of the EPA inspection report, documenting the findings of the inspector, is enclosed as Attachment A for your information and includes only those attachments not provided by the facility representative(s) at the time of or subsequent to the inspection.

Within **thirty (30) calendar days** of the receipt of this NOV, please submit documentation of any measures that the Facility has taken or is taking to achieve compliance with the violations noted above. If the compliance measures identified are planned or are ongoing, please provide a schedule for when the compliance measures will be completed. If the Facility can provide documentation which shows that EPA's determination of the alleged violation(s) is in error, please submit this information as well. Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day for each violation. In addition, failure to achieve and maintain compliance with the regulations cited in this NOV may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.



With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed Attachment B, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the ones cited in this letter, or past violations in any future enforcement action. Your response to this NOV shall be addressed to:

Andrew Ma  
U.S. Environmental Protection Agency - Region III  
Environmental Science Center  
701 Mapes Road  
Fort Meade, MD 20755

If you have any questions regarding this matter, please feel free to contact Mr. Andrew Ma at (410) 305-3429.



Carol Amend  
Associate Director  
Land & Chemicals Division  
Office of Land Enforcement

Feb 26, 2015

Date

Enclosures

cc: A. Ma (3LC70) w/o  
B. Coblentz (MDE) w/o

